

Chief Judge Coughenour

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AT SEATTLE
CLERK U.S. DISTRICT COURT
BY WESTERN DISTRICT OF WASHINGTON DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

HUSSEIN ALSHAFEI,

Defendant.

NO. CR02-421C

PLEA AGREEMENT
(REDACTED PURSUANT TO THE
COURT'S GENERAL ORDER
DATED MAY 29, 2003)

The United States of America, by and through John McKay, United States Attorney for the Western District of Washington, and Francis J. Diskin and Tessa M. Gorman, Assistant United States Attorneys for said District, and the defendant, HUSSEIN ALSHAFEI, and his attorneys, Carol Koller and Tim Lohraff, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c):

1. Waiver of Indictment. Defendant, having been advised of the right to be charged by Indictment, agrees to waive that right and enter a plea of guilty to the charge brought by the United States Attorney in a Superseding Information.

1 2. The Charge. Defendant, having been advised of the right to have this
2 matter tried before a jury, agrees to waive that right and enter a plea of guilty to the
3 following charge contained in the Superseding Information:

4 Conspiracy to Launder Monetary Instruments, as charged in Count 1 of the
5 Superseding Information, in violation of Title 18, United States Code, Section 1956(h).
6 Defendant further understands that before entering his plea of guilty, defendant will be
7 placed under oath. Any statement given by defendant under oath may be used by the
8 government in a prosecution for perjury or false statement. By entering this plea of
9 guilty, defendant hereby waives all objections to the form of the charging document.

10
11 3. Elements of the Offense. The elements of the offense of conspiracy to
12 launder monetary instruments as charged in Count 1 of the Superseding Information, in
13 violation of Title 18, United States Code, Section 1956(h), are as follows:

14 First, beginning in approximately 1996 and continuing to about December
15 2002, there was an agreement between the defendant and Abu Haider to engage in
16 monetary transactions in criminally derived property of a value in excess of \$10,000;

17 Second, the defendant joined this conspiracy knowing of its objective and
18 intending to help accomplish it;

19 Third, the criminally derived property was derived from a specified
20 unlawful activity, that is violations and attempted violations of the International
21 Emergency Economic Powers Act, and the regulations promulgated thereunder; and

22 Fourth, the offense took place in the United States.

23
24 4. The Penalties. Defendant understands that the statutory penalties for a
25 violation of Title 18, United States Code, Section 1956(h), that is, a conspiracy to
26 commit an offense defined in Title 18 United States Code, Section 1957, as charged in
27 Count 1 of the Superseding Information, are as follows:

1 a. Imprisonment for up to ten (10) years, a fine of up to two hundred
2 and fifty thousand dollars (\$250,000.00) or twice the value of the criminally derived
3 property, whichever is greater, a period of supervision following release from prison of
4 up to three (3) years, and a one hundred dollar (\$100.00) penalty assessment.
5 Defendant understands that a consequence of pleading guilty may include the forfeiture
6 of certain property either as a part of the sentence imposed by the Court, or as a result
7 of civil judicial or administrative process. Defendant agrees that any monetary penalty
8 the Court imposes, including the special assessment or fine is due and payable
9 immediately, and further agrees to submit a completed Financial Statement of Debtor
10 form as requested by the United States Attorney's Office.

11 Defendant understands that supervised release is a period of time following
12 imprisonment during which he will be subject to certain restrictions and requirements.
13 Defendant further understands that if supervised release is imposed and he violates one
14 or more of its conditions, he could be returned to prison for all or part of the term of
15 supervised release that was originally imposed. This could result in defendant serving a
16 total term of imprisonment greater than the statutory maximum stated above.

17
18 5. Rights Waived by Pleading Guilty. Defendant understands that, by
19 pleading guilty, he knowingly and voluntarily waives the following rights:

20 a. The right to plead not guilty, and to persist in a plea of not guilty;

21 b. The right to a speedy and public trial before a jury of defendant's
22 peers;

23 c. The right to the effective assistance of counsel at trial, including, if
24 defendant could not afford an attorney, the right to have the Court appoint one for
25 defendant;

26 d. The right to be presumed innocent until guilt has been established at
27 trial, beyond a reasonable doubt;

28 e. The right to confront and cross-examine witnesses against defendant

1 at trial;

2 f. The right to compel or subpoena witnesses to appear on defendant's
3 behalf at trial;

4 g. The right to testify or to remain silent at trial, at which trial such
5 silence could not be used against defendant; and

6 h. The right to appeal a finding of guilt or any pretrial rulings.
7

8 6. Applicability of Sentencing Guidelines. Defendant understands and
9 acknowledges the following:

10 a. The United States Sentencing Guidelines, promulgated by the
11 United States Sentencing Commission, are applicable to this case;

12 b. The Court will determine defendant's applicable Sentencing
13 Guidelines range at the time of sentencing;

14 c. The Court may impose any sentence authorized by law, including a
15 sentence that, under some circumstances, departs from any applicable Sentencing
16 Guidelines range up to the maximum term authorized by law;

17 d. The Court is not bound by any recommendation regarding the
18 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines
19 range offered by the parties, or by the United States Probation Department; and

20 e. Defendant may not withdraw a guilty plea solely because of the
21 sentence imposed by the Court.
22

23 7. Guideline Calculation. The parties agree that the guideline applicable to
24 the offense charged in Count 1 of the Superseding Information, a violation of Title 18
25 United States Code, Section 1956(h), is USSG 2S1.1(a) and that the guideline for the
26 underlying offense is USSG 2M5.1(a)(2).
27

28 8. Ultimate Sentence. Defendant acknowledges that no one has promised or

1 | guaranteed what sentence the Court will impose.

2 |

3 | 9. Statement of Facts. The parties agree on the following facts in support of
4 | defendant's guilty plea. Defendant admits he is guilty of the charged offense.

5 | In August 1990, the President of the United States signed an Executive
6 | Order prohibiting activities with Iraq, including any commitment to transfer, direct or
7 | indirect, any funds or other financial or economic resources to the Government of Iraq
8 | or any person in Iraq. That Order was renewed by every sitting President through the
9 | year 2002. Pursuant to the authority conferred on the Secretary of the Treasury, the
10 | Office of Foreign Assets Control promulgated and caused to be published in the Federal
11 | Register the "Iraqi Sanctions Regulations," 31 CFR 575.210 which prohibited any
12 | person living in the United States to "commit or transfer, directly or indirectly, funds or
13 | other financial or economic resources to the Government of Iraq or any person in Iraq."
14 | The defendant acknowledges that regulations published in the Federal Register provide
15 | notice to the world and have the force of law and his failure to abide by such regulations
16 | satisfies the willfulness element of the International Emergency Economic Powers Act,
17 | the specified unlawful activity mentioned in paragraph 3, above.

18 | Sometime in 1996, Abu Haider, the defendant's brother-in-law, and a resident of
19 | Baghdad, Iraq, sought the defendant's assistance in financing a purchase of goods in
20 | India for transport into Iraq for sale. Abu Haider solicited the defendant to send
21 | \$15,000 to a company in India for these goods because funds could not be transferred
22 | from Iraq without permission by the government of Iraq. While the defendant did not
23 | have access to that amount of money, he and Abu Haider developed a plan whereby
24 | HUSSEIN ALSHAFEI would offer a money remitting service to those in the United
25 | States who wished to send funds to family members in Iraq. In order to develop trust
26 | with prospective customers, Abu Haider agreed to distribute funds in Iraq to individuals
27 | identified by these U.S. residents even before they transferred funds to HUSSEIN
28 | ALSHAFEI for this purpose. HUSSEIN ALSHAFEI acted on this proposal in 1996 and

1 again approximately one year later, notwithstanding the above restrictions.

2 Around 1998, with the agreement of others, defendant HUSSEIN ALSHAFEI
3 opened a business, ALSHAFEI FAMILY CONNECT (AFCI), designed to continue to
4 facilitate the business activities of the defendant's brother-in-law, Abu Haider. Abu
5 Haider relied on the defendant to send funds to other countries for the purchase of goods
6 to be shipped to Iraq and later sold - usually on the black market. In order to acquire
7 the money for this purpose, the defendant again offered a service to members of the
8 Iraqi community in the United States wherein he would facilitate the transfer of funds
9 from these United States residents to persons in Iraq notwithstanding the economic
10 sanctions imposed by the United States and the United Nations.

11 In furtherance of the plan to transmit money and goods to persons in Iraq, the
12 defendant opened bank accounts in Western Washington. Thereafter the defendant
13 would collect funds that individuals wished to transmit to persons in Iraq. Some of
14 these funds were collected directly by the defendant. Additional funds were collected by
15 AFCI agents in Dallas, Texas, St. Louis, Missouri, Nashville, Tennessee, Phoenix,
16 Arizona, Roanoke, Virginia and elsewhere. Based on representations by the defendant,
17 some of these agents believed that HUSSEIN ALSHAFEI was licensed to engage in
18 these transactions. Such funds were then deposited to an AFCI account at a Bank of
19 America branch in one of those cities.

20 The AFCI agents would also transmit, by facsimile or telephone, the names and
21 phone numbers of individuals in Iraq to whom the funds were to be paid. Almost daily,
22 the defendant would transmit to Abu Haider a similar list identifying the individuals to
23 be paid and the amounts thereof. While Abu Haider could not move cash out of Iraq, he
24 was able to use the profits from the sale of goods shipped to that country to deliver cash
25 to persons in Iraq as designated by the U.S. residents. On a frequent basis, the
26 defendant would cause funds on deposit in Western Washington to be wire transferred to
27 accounts in Amman, Jordan and the United Arab Emirates, to which Abu Haider had
28 access, and to business accounts throughout the world to facilitate Abu Haider's

1 acquisition of goods which were to be shipped to Iraq for resale.

2 Prior to January 31, 2002, HUSSEIN ALSHAFEI had accessed the Treasury
3 Department website and downloaded the Iraqi Sanctions Regulations. At the end of
4 January 2002, during the execution of search warrants at his home and business, U. S.
5 Customs Service agents specifically explained to the defendant that sending money or
6 economic resources to individuals in Iraq violated federal law. Notwithstanding that
7 admonition, HUSSEIN ALSHAFEI renewed his activity; within a matter of weeks he
8 again provided money and economic resources to individuals in Iraq.

9 The defendant charged those wishing to send money to persons in Iraq a fee of
10 approximately 4% to 6% for his services; a portion of that fee was remitted to some of
11 the agents who collected and forwarded funds to the defendant from various cities in the
12 United States. The defendant acknowledges that he did not truthfully report on his
13 federal income tax returns the full amount of the funds being collected by AFCI for
14 these services.

15 One of the defendant's reasons for operating AFCI, from 1998 through 2002,
16 was to make money and to facilitate Abu Haider's business enterprise. It was not part
17 of his business practice for the defendant to inquire about the purpose of the funds.
18 During the life of AFCI, the defendant transferred more than \$12,000,000 abroad to
19 Iraq and other countries in the Middle East. The parties agree that the vast majority of
20 AFCI customers in the United States who wished to transfer funds to family members in
21 Iraq were motivated by their concerns for the welfare of relatives in Iraq. The
22 defendant acknowledges that such a concern, while shared by the defendant, was not his
23 only motive in operating AFCI.

24
25 10. Non-Prosecution of Additional Offenses. As part of this Plea Agreement,
26 the United States Attorney's Office for the Western District of Washington agrees to
27 move to dismiss at the time of sentencing, with respect to defendant HUSSEIN
28 ALSHAFEI, the Superseding Indictment and not to prosecute the defendant for any

1 additional offenses known to it as of the time of this Agreement that are based upon
2 evidence in its possession at this time, or that arise out of the conduct giving rise to this
3 investigation. In this regard, defendant recognizes that the United States has agreed not
4 to prosecute all of the criminal charges that the evidence establishes were committed by
5 defendant solely because of the promises made by defendant in this Agreement.
6 Defendant acknowledges and agrees, however, that for purposes of preparing the
7 Presentence Report, the United States Attorney's Office will provide the United States
8 Probation Office with evidence of all relevant conduct committed by defendant.

9 Defendant agrees and acknowledges that any charges to be dismissed before or at
10 the time of sentencing were substantially justified in light of the evidence available to the
11 United States, were not vexatious, frivolous or taken in bad faith, and do not provide
12 defendant with a basis for any future claims under the "Hyde Amendment," Pub.L. No.
13 105-119 (1997).

14
15 11. Voluntariness of Plea. Defendant acknowledges that he has entered into
16 this Plea Agreement freely and voluntarily, and that no threats or promises, other than
17 the promises contained in this Plea Agreement, were made to induce defendant to enter
18 this plea of guilty.

19
20 12. Forfeiture. Defendant agrees to forfeit to the United States immediately
21 all of his right, title and interest in any and all property, real or personal, that was used,
22 or intended to be used, in any manner or part, to commit or to facilitate the commission
23 of the charged offense, and any property constituting, or derived from, any proceeds
24 defendant obtained, directly or indirectly, as the result of such offenses, that are subject
25 to forfeiture pursuant to Title 21 U.S.C., Section 853, including the following assets:

26 All right, title, and interest in any and all property involved in each offense
27 in violation of Title 18, United States Code, Section 1956, or conspiracy to commit such
28 offense, for which the defendant is convicted, and all property traceable to such

1 property, including the following bank accounts:

- 2 i. all funds in Comerica Bank account # [REDACTED] 5890, in the name
3 ALSHAFEI FAMILY CONNECT, INC.; and
- 4 ii. all funds in Homestreet Bank account # [REDACTED] 3665, in the name
5 ALSHAFEI FAMILY CONNECT, INC.

6 Defendant agrees that each of the listed assets is the proceeds of unlawful activity
7 or was used or intended to be used to facilitate unlawful activity or involved in money
8 laundering violations as set forth in Count 1 of the Superseding Information.

9 Defendant agrees to fully assist the United States in the forfeiture of the listed
10 assets and to take whatever steps are necessary to pass clear title to the United States,
11 including but not limited to: surrendering title and executing any documents necessary
12 to effectuate such forfeiture; assisting in bringing any assets located outside the
13 United States within the jurisdiction of the United States; and taking whatever steps are
14 necessary to ensure that assets subject to forfeiture are not sold, disbursed, wasted,
15 hidden, or otherwise made unavailable for forfeiture. Defendant agrees not to file a
16 claim to any of the listed property in any civil forfeiture proceeding, administrative or
17 judicial, which may be initiated.

18 Defendant further agrees to provide a truthful statement regarding all of his
19 assets, and to make a full and complete disclosure of all assets in which defendant has
20 any interest or over which defendant exercises control and those which are held or
21 controlled by a nominee.

22 The United States reserves its right to proceed against any remaining assets not
23 identified in this Plea Agreement, including any property in which defendant has any
24 interest or control, if said assets, real or personal, were involved in violations of 18
25 U.S.C. §§ 1956 or 1957.

1 13. Cooperation.

2 a. Defendant shall cooperate completely and truthfully with law
3 enforcement authorities in the investigation and prosecution of other individuals involved
4 in criminal activity. Such cooperation shall include, but not be limited to, complete and
5 truthful statements to law enforcement officers, as well as complete and truthful
6 testimony, if called as a witness before a grand jury, or at any state or federal trial,
7 retrial, or other judicial proceedings. Defendant also agrees to cooperate with any other
8 U.S. agency which may wish to question him regarding individuals or events in Iraq
9 about which the defendant has information. Defendant acknowledges that this obligation
10 to cooperate shall continue after defendant has entered a guilty plea and sentence has
11 been imposed, no matter what sentence defendant receives; defendant's failure to do so
12 may constitute a breach of this Plea Agreement.

13 b. Defendant understands that the United States will tolerate no
14 deception from him. If, in the estimation of the United States Attorney, information or
15 testimony provided from the date of the Plea Agreement, proves to be untruthful or
16 incomplete in any way, regardless of whether the untruthfulness helps or hurts the
17 United States' case, the United States Attorney for the Western District of Washington
18 may consider that defendant has breached this Plea Agreement.

19 c. As noted above, the United States Attorney's Office for the Western
20 District of Washington, in turn, agrees not to prosecute defendant for any other
21 offenses, other than crimes of violence, that defendant may have committed in the
22 Western District of Washington prior to the date of this Agreement about which the
23 United States presently possesses information. Further, the United States Attorney's
24 Office for the Western District of Washington agrees not to prosecute the defendant
25 based on any information which the defendant provides pursuant to this Agreement to
26 cooperate with the authorities.

27 d. The parties agree that information provided by defendant in
28 connection with this Plea Agreement shall not be used to determine defendant's

1 sentence, except to the extent permitted by USSG Section 1B1.8.

2 e. The defendant acknowledges that his agreement to cooperate as part
3 of this plea agreement will not result in a motion for a reduction of sentence pursuant to
4 either USSG Section 5K1.1 or Rule 35, Fed.R.Crim.P.

5
6 14. Acceptance of Responsibility. The United States acknowledges that if
7 defendant qualifies for an acceptance of responsibility adjustment pursuant to
8 USSG Section 3E1.1(a) and if the offense level is sixteen (16) or greater, defendant's
9 total offense level should be decreased by three (3) levels pursuant to
10 USSG Sections 3E1.1(a) and (b), because defendant has assisted the United States
11 entering his pleas of guilty prior to the motions cut-off date, thereby permitting the
12 United States to avoid preparing for trial and permitting the Court to allocate its
13 resources efficiently.

14
15 15. Statute of Limitations. In the event that this Agreement is not accepted by
16 the Court for any reason, or defendant has breached any of the terms of this Plea
17 Agreement, the statute of limitations shall be deemed to have been tolled from the date
18 of the Plea Agreement to: (1) 30 days following the date of non-acceptance of the Plea
19 Agreement by the Court; or (2) 30 days following the date on which a breach of the Plea
20 Agreement by defendant is discovered by the United States Attorney's Office.

21
22 16. Post-Plea Conduct. Defendant understands that the terms of this Plea
23 Agreement apply only to conduct that occurred prior to the execution of this Agreement.
24 If, after the date of this Agreement, defendant should engage in conduct that would
25 warrant an increase in defendant's adjusted offense level or justify an upward departure
26 under the Sentencing Guidelines (examples of which include, but are not limited to:
27 obstruction of justice, failure to appear for a court proceeding, criminal conduct while
28 pending sentencing, and false statements to law enforcement agents, the probation

1 officer or Court), the United States is free under this Agreement to seek a sentencing
2 enhancement or upward departure based on that conduct.

3
4 17. Completeness of Agreement. The United States and defendant
5 acknowledge that these terms constitute the entire Plea Agreement between the parties.
6 This Agreement only binds the United States Attorney's Office for the Western District
7 of Washington. It does not bind any other United States Attorney's Office or any other
8 office or agency of the United States, or any state or local prosecutor.

9 Dated this 24th day of June, 2003.

10
11 
12 HUSSEIN ALSHAFEI
13 Defendant

14 *for* 
15 CAROL KOLLER
16 Attorney for Defendant

17 
18 TIM LOHRAFF
19 Attorney for Defendant

20 
21 *for* FLOYD SHORT
22 Assistant United States Attorney

23 
24 FRANCIS J. DISKIN
25 Assistant United States Attorney

26 
27 TESSA M. GORMAN
28 Assistant United States Attorney